

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6319 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NJ SARVAIYA

Versus

STATE OF GUJARAT

Appearance:

MR IS SUPEHIA for Petitioner

MR DA BAMBHANIA for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/12/97

ORAL JUDGEMENT

Heard learned counsel for the parties.

2. Rule. Shri D.A.Bambhania waives service of Rule on behalf of respondents. The matter is taken up for final hearing on the request of learned counsel for the parties.

3. The petitioner, while serving as a Police

Inspector in the Police Department of the Government of Gujarat, retired from services on 30.4.97. As per the case of petitioner, he had to cross Efficiency Bar on 1.2.89. Vide notice dated 17.2.97, the petitioner was called upon by the Department to furnish explanation as to why he should not be stopped from crossing the Efficiency Bar with effect from 1.2.89. The petitioner submitted reply to the said notice on 28th March 1997. Under the order dated 20th June 1997, the petitioner was not allowed to cross Efficiency Bar from 1.2.89 and he has not earned increment by virtue of this order. Hence this Special Civil Application before this Court.

4. The learned counsel for respondents admits that against the order dated 20th June 1997 of the respondents under which the petitioner was allowed to cross Efficiency Bar, no appeal is provided either to the Service Tribunal or Departmentally. He further admits that the service matters of Police Department do not fall within the purview or jurisdiction of the Service Tribunal, otherwise also.

5. In many of the cases, this Court has given directions to the respondents either to provide remedy of appeal in the service matters to its employees/ officers by enlarging the jurisdiction of the Tribunals or statutory appeal in any other forum or to provide a high powered committee at the Secretariat to decide all such service disputes. It is difficult to appreciate that even in small matters of crossing of Efficiency Bar, withholding of increments or seniority disputes or promotion disputes, etc., the employees and officers of the Government of Gujarat have to come directly before this Court under Article 226 of the Constitution of India, which results in increasing pendency graph of cases in this Court.

6. Interest of justice will be met in case this Special Civil Application is disposed of in terms that the petitioner shall make a representation to the Chairman of the Committee to be constituted by the State of Gujarat under the Chairmanship of its Chief Secretary and other members, namely the Secretary to the Home Department, and Law Secretary. Such representation should be made by petitioner within a period of 15 days from the date of receipt of certified copy of this order. The Committee so constituted shall decide the representation of the petitioner within three months from the date of receipt of the same and if the petitioner so desires, he may be given opportunity of personal hearing also. In case ultimately the relief as prayed for by

petitioner in this Special Civil Application is granted by the Committee, he shall be entitled for all consequential benefits which have to be given to him within a period of two months next. Where the Committee do not accept the grievance of the petitioner, then a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D. In case of difficulty, liberty is granted to the petitioner for revival of this Special Civil Application. Rule and Special Civil Application stand disposed of in aforesaid terms with no order as to costs.

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(sunil)